

OLL 85-0687/1
7 March 1985

DD/A Registry
85-0799/1

MEMORANDUM FOR THE RECORD

SUBJECT: Second Hearing Before the Subcommittee on Legislation and National Security, House Committee on Government Operations, on the Constitutionality of the General Accounting Office's (GAO) Bid Protest Function.

1. The Subcommittee convened at 9:30 a.m. on 7 March 1985, in Room 2154 Rayburn, continuing its hearings on the above described subject. (MFR dated 28 February 1985.) The following Members were present:

Jack Brooks, Chairman (D., TX)
Frank Horton, Ranking Minority Member (R., NY)
David S. Monson (R., UT)
Joseph J. DioGuardi (R., NY)
H. James Saxton (R., NJ)

2. A copy of the Witness List is attached, along with copies of the prepared statements of the witnesses, except for the last named, who had none prepared.

3. Mr. David Stockman, Director, Office of Management and Budget, and Mr. D. Lowell Jensen, the Acting Deputy Attorney General of the Justice Department, gave support to the position taken by the Executive Branch, i.e., the Comptroller General, General Accounting Office, is an arm of the Legislative Branch and cannot bind the Executive Branch; and that the President has the right not to implement provisions of a law he deems unconstitutional. Although in Mr. Stockman's case, it was accepted that he was following up on the legal opinion received from Justice.

4. The General Counsel and Deputy General Counsel, Office of the Clerk, House of Representatives, (along with the last witness) disputed these contentions, saying the Judiciary has the responsibility and jurisdiction for resolving the issues, not the Executive Branch.

5. Both the Chairman and the Ranking Minority Member asked Mr. Jensen to submit supporting memoranda on:

(a) the authority for the Attorney General to declare provisions of any law unconstitutional before a court of law has rendered a decision; and

(b) why the Comptroller General may not bind the Executive Branch.

6. The Subcommittee adjourned the hearing at about 12:00 Noon.

STAT

[Redacted]
Liaison Division
Office of Legislative Liaison

Attachments

Acting Chief, Liaison Division, OLL

Distribution:

Original - OLL Record w/atts

1 - OLL Chrono w/o atts

1 - OGC [Redacted] w/atts

1 - DDA (Attn: [Redacted]) w/atts

1 - OLL/LD [Redacted] w/o atts

LD/OLL [Redacted] :gg (28 March 1985)

STAT
SIAI
STAT
STAT

LEGISLATION AND NATIONAL SECURITY SUBCOMMITTEE

Continuation of Hearings on the Constitutionality
of the GAO's Bid Protest Function

Thursday, March 7, 1985
9:30 a.m.
2154 Rayburn House Office Building

SCHEDULE OF WITNESSES

The Honorable David A. Stockman
Director
Office of Management and Budget

Steven R. Ross, Esquire
General Counsel
Office of the Clerk
House of Representatives

Accompanied by: Charles Tiefer, Esquire
Deputy General Counsel

The Honorable D. Lowell Jensen
Acting Deputy Attorney General
Department of Justice

Lawrence R. Velvel, Esquire
Attorney at Law